

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
25 SIGOURNEY STREET  
HARTFORD, CT 06106-5033

██████████ 2013  
Signature Confirmation

Client ID # ██████████  
Request #545211

NOTICE OF DECISION

PARTY

██████████  
████████████████████  
████████████████  
██████████  
████████████████

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective ██████████ 2012.

On ██████████ 2013, the Appellant requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

On ██████████ ██████████ 2013, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2013.

On ██████████ 2013 in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Appellant's daughter, Authorized Representative ("AREP")  
██████████, Appellant's granddaughter, Administrator of Estate  
████████████████████, Family Attorney  
████████████████████, Appellant's Representative  
Maria Escalante, Department's Representative  
Miklos Mencseli, Hearing Officer

The Appellant expired on [REDACTED] 2013.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether or not the Department was correct in its determination of the effective date of the Applicant's Long Term Care Medicaid benefits.

### **FINDINGS OF FACT**

1. On [REDACTED] 2011, the Department received an application for Medicaid Long Term Care assistance for the Appellant. (Exhibit A: W-1F application dated [REDACTED]-11)
2. The Appellant is a resident of Long Ridge Health Care. (Exhibit A)
3. The Appellant is a [REDACTED] year old widowed individual. (Exhibit A)
4. The Appellant named [REDACTED] and [REDACTED] her daughters to be her AREP'S. (Exhibit A, Exhibit B: letter dated [REDACTED]-11)
5. [REDACTED], an employee from Health Bridge Management, the owner of Long Ridge of Stamford facility assisted [REDACTED], the Appellant's AREP in the application process. (Exhibit: Affidavit signed by [REDACTED] dated [REDACTED]-13, Testimony)
6. During the application process the Department sent several W-1348LTC's We Need Verification from You form and attached letters to the Appellant's AREP's requesting certain information be provided by the Appellant to determine eligibility. (Summary, Testimony)
7. The Department continued to send the Appellant's AREP's the W-1348LTC form as long as they provided at least one of the requested items on the form to the Department. (Testimony)
8. On [REDACTED] 2012, the Department sent the Appellant's AREP's a W-1348LTC We Need Verification from You requesting certain information be provided by the Appellant to determine eligibility. The requested information was due by [REDACTED] 2012. (Summary, Exhibits C & D, Appellant's Exhibit D: W-1348LTC dated [REDACTED]-13)
9. The W-1348LTC came with an attached letter clearly stating the verifications the Department was requesting. The letter stated to call the Department's worker if you have any questions and to request an extension if you can not provide all the information requested by the time limit. (Exhibit D, Appellant's Exhibit D)

10. On [REDACTED], 2012, Hurricane Sandy hit Connecticut causing power outages and damages to the state. (Appellant Exhibit F: CNN Hurricane Sandy Fast Facts web printout)
11. The Department of Social Services was closed on [REDACTED] 2012 and [REDACTED] 2012 due to Hurricane Sandy.
12. On [REDACTED] 2012, the Department, having received no verifications or other response from the Appellant's AREP's denied the Appellant's application for medical assistance for failure to provide information necessary to establish eligibility. (Exhibit F: NOA dated [REDACTED]-12)
13. The Department extended the due date for the requested verifications due to Hurricane Sandy as the W-1348LTC due date was [REDACTED] 2012. (Testimony)
14. The Department sent three Denial notices: two to the Appellant's AREP's and one to the Appellant at the facility. (Exhibit E)
15. AREP, [REDACTED] had medical issues that incapacitated her from the [REDACTED] of 2011 through [REDACTED] 2012. (Appellant Exhibit A: Doctor's notes dated [REDACTED] 13)
16. AREP, [REDACTED], had surgery in [REDACTED] 2012 and was incapacitated from [REDACTED] 2012 through [REDACTED] 2013. (Appellant's Exhibit G: Doctor's notes dated [REDACTED]-13)
17. The Appellant or her AREP's did not file a request for a fair hearing regarding the denial of her application for Medicaid Long Term Care assistance. (Testimony)
18. On [REDACTED], 2013, the Department receives its first contact from anyone regarding the Appellant's application. (Summary, Testimony)
19. On [REDACTED] 2013, the Department receives a fax from [REDACTED]. The fax is a copy of the Court of Probate Conservator of Estate, date of appointment [REDACTED], 2013. (Exhibit B: appointment document)
20. On [REDACTED] 2013, the Department faxed to [REDACTED] the W-1348LTC originally sent on [REDACTED], 2012. (Exhibit C: fax confirmation dated [REDACTED]-13)
21. On [REDACTED] 2013, [REDACTED] submitted an application for the Appellant for Medicaid Long Term Care assistance. (Exhibit A: W-1 application request signed and dated [REDACTED]-13)

22. On [REDACTED] 2013, the Department received a letter from [REDACTED] stating that the Appellant passed on [REDACTED] 2013 and that her duties as her conservator has ceased. (Exhibit D: Letter dated [REDACTED]-13)
23. On [REDACTED] 2013, the Department received a fax from [REDACTED] [REDACTED]. They requested a 10 day extension of time to [REDACTED], 2013 as on [REDACTED], 2013 Probate Court is holding a hearing to name an Administrator of Estate. (Exhibit B: fax dated [REDACTED]-13)
24. Probate Court appointed [REDACTED] Administrator of Estate.
25. The Department continued to determine eligibility for the Appellant by sending W-1348LTC We Need Verification from You forms with attached letters on [REDACTED] 2013, [REDACTED], 2013, [REDACTED], 2013 and [REDACTED], 2013 requesting verifications to determine eligibility. (Exhibit D: W-1348LTC's with attached letters)
26. On [REDACTED] 2013, the Department was able to grant the Appellant Medicaid Long Term Care assistance effective for [REDACTED] 2012 based on the application submitted on [REDACTED] 2013. (Summary, Exhibit F: NOA dated [REDACTED]-13)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Uniform Policy Manual ("UPM") § 1010.05(A)(1) provides that: the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits.
3. UPM § 1015.10(A) provides that the Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit's rights and responsibilities.
4. The Department correctly sent the Appellant's AREP's a verification request form requesting information needed to establish eligibility.
5. UPM §1540.10 A provides that the verification of information pertinent to an eligibility determination or a calculation of benefits is provided by the assistance unit or obtained through the direct efforts of the Department. The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

6. UPM § 1505.40(B)(5)(a) provides that for delays due to insufficient verification, regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred:
  1. the Department has requested verification; and
  2. at least one item of verification has been submitted by the assistance unit within a time period designated by the Department but more is needed.
7. After sending the Appellant's AREP's a W1348LTC on [REDACTED] 2012 with a due date of [REDACTED] 2013, the Department did not receive at least one item of verification it had requested.
8. The Department extended the due date to [REDACTED] 2013, the Department did not receive at least one item of verification it had requested.
9. UPM § 1505.40(B)(5)(b) provides that additional 10 day extensions for submitting verification shall be granted as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension period.
10. The Department correctly did not provide the Appellant's AREP an additional 10 day extension, as it did not receive at least one item of verification.
11. UPM §1540.15 (B) (1) (2) provides that documents are the primary sources of verification whenever such evidence can be acquired. The Department accepts any document which it feels clearly establishes the veracity of the unit's declarations without restricting the evidence to any one particular type of document.
12. The Appellant did not provide documentary evidence of the requested verification until after the Department denied the Appellant's application and submission of a new application.
13. UPM § 1540.05 (D) (1) (a) (b) provides the penalty for failure to provide required verification depends upon the nature of the factor or circumstance for which verification is required: If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to: income amounts and asset amounts.

14. The Department correctly denied the Appellant's [REDACTED], 2011 medical assistance application on [REDACTED] 2012, due to the Appellant's failure to provide information necessary to establish eligibility.
15. UPM §1570.05 (H)(1)(a) provides for time limits for requesting a Fair Hearing. The request for a Fair Hearing must be made within a specified period of time from the date that the Department mails a notice of action. For all programs except Food Stamps, this period is 60 days.
16. The Appellant or the Appellant's representatives did not request a Fair Hearing regarding the denial notice mailed on [REDACTED] 2012 within the 60 day period.
17. UPM §4005.10 (A)(2)(a) provides that the Medicaid asset limit for one person is \$1,600.00.
18. UPM § 4005.15 provides that in the Medicaid program at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit.
19. The Department was not able to establish eligibility until [REDACTED] 2013.
20. UPM § 1560.10 (A) provides for begin dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: the first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month.
21. The Department correctly granted Long Term Care Medicaid effective for [REDACTED] 2012 for the Appellant based on her [REDACTED] 2013 application.

### **DISCUSSION**

The Appellant's representatives argued that due to circumstances beyond their control they were unable to provide the verifications by the due date. The undersigned does not find the explanations credible and convincing. The facility going on strike has nothing to do with the application process. The Application is with the Department and it determines eligibility. It's unfortunate that the person from the facility who was assisting the Appellant's AREP got moved or reassigned but it's not her responsibility to provide verifications to the Department. The AREP did not contact the Department and request additional time or assistance. The strike occurred prior to the Department sending the last W-1348LTC. Regarding Hurricane Sandy, the Department was closed on [REDACTED] h and [REDACTED] h 2012. The Department made allowance for this as the denial notice was not issued until [REDACTED] 2012. The due date of the

W-1348LTC was [REDACTED] 2012. The Department was not contacted until [REDACTED] 2013. This is beyond the 60 day limit to request a fair hearing. The Appellant's representatives provided medical documents concerning the AREP's. One of the AREP's according to the medical documentation was incapacitated until [REDACTED] 2013. The other AREP was not and the Department did send out three denial notices. Not one individual was able to call the Department or submit a hearing request? In addition, once a new application was submitted in [REDACTED] 2013, the Department still had to send 4 additional request forms for verifications. It was not until [REDACTED] 2013 that the Department was able to determine eligibility and grant retro assistance effective for [REDACTED] 2012.

### **DECISION**

The Appellant's appeal is **DENIED**.

  
Miklos Mencsell  
Hearing Officer

C: Alexis Kiss, Operations Manager, DSS R.O. #32 Stamford  
[REDACTED]

### **RIGHT TO REQUEST RECONSIDERATION**

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within **25** days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a(a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 25 Sigourney Street, Hartford, CT 06106.

### **RIGHT TO APPEAL**

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 25 Sigourney Street, Hartford, CT 06106. A copy of the petition must also be served on all parties to the hearing.

The **45** day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than **90** days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or his designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.





